United Nations S/2014/41

Security Council

Distr.: General
23 January 2014

Original: English

Letter dated 22 January 2014 from the Chair of the Security Council Committee pursuant to resolutions 1267 (1999) and 1989 (2011) concerning Al-Qaida and associated individuals and entities addressed to the President of the Security Council

I have the honour to transmit herewith the fifteenth report of the Analytical Support and Sanctions Monitoring Team established pursuant to resolution 1526 (2004), which was submitted to the Security Council Committee pursuant to resolutions 1267 (1999) and 1989 (2011) concerning Al-Qaida and associated individuals and entities, in accordance with paragraph (a) of annex I of resolution 2083 (2012).

I should be grateful if the attached report could be brought to the attention of the Council members and issued as a document of the Security Council.

(*Signed*) Gary **Quinlan**
Chair
Security Council Committee pursuant to resolutions 1267 (1999) and 1989 (2011) concerning Al-Qaida and associated individuals and entities

14-21386 (E) 180214

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Letter dated 26 December 2013 from the Analytical Support and Sanctions Monitoring Team in accordance with paragraph (a) of annex I to Security Council resolution 2083 (2012) addressed to the Chair of the Security Council Committee pursuant to resolutions 1267 (1999) and 1989 (2011) concerning Al-Qaida and associated individuals and entities

I have the honour to transmit to you the fifteenth report of the Analytical Support and Sanctions Monitoring Team in accordance with paragraph (a) of annex I to resolution 2083 (2012).

The Monitoring Team notes that the document of reference is the English original.

The report makes few direct recommendations for consideration by the Committee. This reflects the fact that the report of June 2013 made a number of recommendations, most of which have been endorsed by the Committee. Hence much of the current focus of the Monitoring Team is on implementing these recommendations rather than on making fresh ones.

I would like to pay tribute to the hard work and dedication of the Monitoring Team in preparing the report. Both the experts and the staff assigned to support the Team worked intensively to prepare the report, which draws extensively on country visits and other information provided by Member States.

(*Signed*) Alexander **Evans**
Coordinator
Analytical Support and Sanctions Monitoring Team

Fifteenth report of the Analytical Support and Sanctions Monitoring Team submitted pursuant to resolution 2083 (2012) concerning Al-Qaida and associated individuals and entities

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I. Summary

1. The present report is the fifteenth to be submitted by the Analytical Support and Sanctions Monitoring Team, which supports the work of the Security Council and its Committee established pursuant to Security Council resolutions 1267 (1999) and 1989 (2011) and now referred to as the Al-Qaida Sanctions Committee. The Team finds that Al-Qaida (QE.A.4.01) remains a threat, even though it has not been able to recover its former strength. Meanwhile multiple Al-Qaida affiliates are evolving, often autonomously, with generational, geographical, ethnic, structural and operational changes in evidence. The overarching ideology of international terrorism remains central for all affiliates, but local experiences and preferences generate varying operational trends. This presents a challenge for any analysis of Al-Qaida as a whole. The report also identifies three specific approaches to enhance sanctions implementation:

- First, deterring ransom payments to Al-Qaida and its affiliates to advance the assets freeze
- Second, using biometrics and changes to national inadmissible passenger criteria to advance the travel ban against listed individuals
- Third, improving analysis of and measures to limit component availability for improvised explosive devices used by Al-Qaida and its affiliates

II. Overview

A. Al-Qaida

2. Al-Qaida remains a threat, even though it has not been able to recover its former strength. The ideas, inspiration and networks generated by Al-Qaida continue to reverberate. Aiman Muhammed Rabi al-Zawahiri (QI.A.6.01) remains at large but relatively ineffective, and the manner in which other Al-Qaida affiliates disregard his operational instructions remains revealing. For example, in an audio recording of September 2013 marking the twelfth anniversary of the attacks of 11 September 2001 on the United States of America released in October 2013, he emphasized Al-Qaida's desire to launch attacks against the United States and gave specific instructions concerning potential targets.[1] However, these directions were hardly in evidence in the Harakat Al-Shabaab Al-Mujaahidiin (Al-Shabaab)[2] attack on the Westgate shopping centre in Nairobi on 21 September, in which unarmed men, women and children were killed in cold blood, or in the double suicide bombing against a church in Peshawar, Pakistan, on 22 September. Al-Zawahiri's weak leadership and influence has not resolved differences between Al-Qaida in Iraq and its affiliate Jabhat al Nusrah (both listed as QE.J.115.04).

3. Meanwhile, the detention of Nazih Abdul Hamed Nabin al-Ruqal'I (QI.A.23.01) (also known as Anas Al-Liby) in Tripoli by United States forces on 5 October 2013, demonstrates the continuing capacity and reach of counter-terrorism units. Al-Qaida senior leaders remain on the run, and appear to be

[1] The recording was dated 12 September 2013 but released publicly in October.

[2] Listed by the Security Council Committee pursuant to resolutions 751 (1992) and 1907 (2009) concerning Somalia and Eritrea on 12 April 2010.

following events in the wider Al-Qaida inspired movement rather than directing them. Al-Zawahiri's encouragement of "lone wolf" attacks hints at the reality of the reduced capabilities of Al-Qaida's core, but his simultaneous remarks on strikes similar to those of 11 September 2001 demonstrates the heady goals that this ideology continues to promote. A fragmented Al-Qaida is not devoid of capabilities. Al-Qaida and its leaders will continue to take advantage of national and regional conflicts to regenerate and recruit for future attacks, as is evident from contacts between Al-Qaida's core and various affiliates, along with outreach to militant groups in Libya and the Syrian Arab Republic. There are some signs that Al-Qaida is seeking to regroup and rebuild a presence in Afghanistan in advance of a crucial year of transition in 2014.

B. Al-Qaida affiliates: trends

4. Al-Qaida affiliates are evolving, often autonomously, with generational, geographical, ethnic, structural and operational changes in evidence. These changes are currently most visible within Al-Qaida affiliates in North Africa, the Sahel and the Levant. However, other affiliates are not immune to change, and evolving operational experiences and the removal of senior leaders will likely cause similar developments. The relative weakness of Al-Qaida's core has enabled a number of affiliates to operate more freely, with some operating almost completely independently.

5. **Generational change**. The leadership of some Al-Qaida affiliates shows a shift away from figures ranging in age from the late 40s to 70s to younger men in their late 30s and 40s. Mid-level commanders, in particular, are shaped by a different historical experience than their predecessors. Those gaining the most operational terrorist experience today are younger in age yet, primarily consisting of individuals in their teens through to early 30s. This is evident in groups fighting in Somalia, Yemen, the Syrian Arab Republic and Nigeria. Some Al-Qaida in the Islamic Maghreb (AQIM) (QE.T.14.01) recruits in Mali were as young as 12 years of age. Younger commanders and fighters have a different perspective on international affairs, have the potential to generate propaganda that chimes with their generation more easily, and can also challenge their own leadership on tactics and targets. The Mouvement pour l'Unification et le Jihad en Afrique de l'Ouest (MUJAO) (QE.M.134.12), for example, is composed of younger fighters who challenged the leadership of AQIM. In northern Nigeria, a new generation of Boko Haram militants is displaying a greater appetite for violence and less tolerance for local religious leadership than their predecessors.

6. **Geographical change**. Al-Qaida affiliates have shown capacity to adapt to their environment, taking advantage of local conflicts (as in the Syrian Arab Republic and northern Yemen) and gaps in governance (as in parts of Libya, Iraq and Afghanistan). They have also shown a propensity to find new spaces from which to operate when government forces push terrorists back, as Pakistan has done across much of the Federally Administered Tribal Areas, Somalia managed to do with Al-Shabaab, and French and allied forces managed to do with Al-Qaida affiliates in Mali through Operation Serval. AQIM is no longer anchored in Mali or its original sanctuaries in Algeria. Instead, many fleeing militants have regrouped in southern Libya. The Tibesti Mountains, on the borders between Chad and Libya, are a venue for terrorist training. Mount Chaambi in Tunisia, on the border with Algeria, has also become a refuge for terrorists. According to the authorities of the Niger,

members of Mokhtar Belmokhtar's (QI.B.136.03) group ("Those who sign by blood", not listed) and MUJAO, who perpetrated the Arlit and Agadez attacks in May 2013, came from Libya. There are also signs of Al-Qaida activity or cells in Senegal and Burkina Faso.

7. **Ethnic change**. Al-Qaida affiliates in North Africa and the Sahel are no longer dominated by a North African leadership. Mauritanian and sub-Saharan leaders are emerging, in particular within MUJAO and Ansar Eddine (QE.A.135.13). This was illustrated by Iyad Ag Ghali's (QI.A.316.13) leadership of Ansar Eddine. Growing sub-Saharan African support for the Al-Qaida ideology is one of the most significant trends to watch, evidenced by MUJAO recruitment from the Songhai and Fulani tribes and the involvement of sub-Saharan and West Africans in recent attacks in Algeria and the Niger. Meanwhile in South Asia, Al-Qaida-affiliated militants from Pathan and Punjabi ethnic backgrounds appear increasingly open to work collaboratively in Afghanistan.

8. **Structural change**. Al-Qaida affiliates are becoming more heterogeneous, drawing on and generating a broader constellation of organizations. In Somalia, Al-Shabaab's limited links with Al-Qaida in the Arabian Peninsula (AQAP) (QE.A.129.10) were demonstrated when Ahmed Warsame's (not listed) guilty plea was unsealed in March 2013.[3] Warsame, a Somali national, received training in explosives from AQAP when he was in Yemen with a view to imparting that training to Al-Shabaab. In the Syrian Arab Republic, the potential nexus between large numbers of Al-Qaida affiliated foreign fighters and Jabhat-al-Nusrah creating associations based on a common language could see new pan-Arab and pan-European networks of extremists emerge.[4] In Afghanistan, groups that previously had little to do with each other have been conducting joint operations, as evidenced by the coordinated activities of the Tehrik-e-Taliban Pakistan (QE.T.132.11) and Lashkar-e-Tayyiba (QE.L.118.05) in Kunar province. Adaptation can be defensive as well as opportunistic, as demonstrated by the reduction of *katibats* (brigades) by AQIM into smaller units of around 100 personnel divided into *sariyah* (companies). Closer or better organized associations between affiliates could potentially increase the threat they pose.

9. **Operational change**. Complex, simultaneous multi-strike attacks, as illustrated by the Arlit and Agadez attacks in the Niger on 23 May 2013, demonstrate that local Al-Qaida affiliates are seeking to follow Al-Qaida core guidance for "spectacular" incidents. On 21 September 2013, the attack on the Westgate shopping centre in Nairobi, which killed at least 67 people, was conducted by gunmen drawing directly on the example of the attacks by Lashkar-e-Tayyiba on 26 November 2008 in Mumbai. Meanwhile, tactics used by one group soon spread to others. This is evidenced in the first suicide attacks in Mali, the Niger and Libya in 2013, following on from suicide attacks in Nigeria in 2011 and Mauritania in 2009. Many attacks that take place, along with disrupted attack plans, demonstrate a striking degree of operational capacity, sophistication and intelligence-gathering capability.

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[3] "Guilty plea unsealed in New York involving Ahmed Warsame, a senior terrorist leader and liaison between Al Shabaab and Al Qaeda in the Arabian Peninsula, for providing material support to both terrorist organizations", in the United States Federal Bureau of Investigation press release, 25 March 2013.

[4] One challenge for European fighters joining Al-Qaida affiliates in the Syrian Arab Republic is the lack of Arabic language skills. As a result, foreign fighters often operate along with others who speak their language.

C. Al-Qaida affiliates: primary groups

10. In Africa, AQIM and affiliates have executed successful attacks[5] during the second half of 2013. Despite losing its sanctuary in Mali, AQIM has not lost all its operational capacity, demonstrating relative resilience. This was illustrated by recent improvised explosive devices (IEDs) and vehicle-borne improvised explosive devices attacks in Kidal, Timbuktu and Tessalit as well as continuing kidnappings.[6] This is indicative of the resolve of AQIM to continue targeting foreign interests in the region and its propensity to infiltrate local communities, taking advantage of political instability and the incomplete restoration of State authority in northern Mali. AQIM also generates propaganda through the "Al Andalus" website. Ansar Eddine appears to have faded, and figures associated with the group appear to have resurfaced within the leadership of the High Council for the Unity of Azawad in Tuareg political negotiations with the Government in Mali.

11. The merger of MUJAO with "Those who sign by blood" of Mokhtar Belmokhtar has given birth to the movement Al-Murabitoun (not listed) on 22 August 2013, three months after both groups co-claimed the Agadez and Arlit attacks in the Niger. The two groups claimed that they have "united in preparation for the union of Muslims from the Nile to the Atlantic".[7] It remains to be seen whether this merger will be followed by an operational reorganization within Al-Qaida franchises. It could also allow Mokhtar Belmokhtar to consolidate his personal leadership within Al-Qaida-affiliated groups in the region.

12. Boko Haram's continuing attacks in Nigeria, including the attack on a military airbase in Maiduguri, the capital of Borno State,[8] in December 2013, show that it remains a threat. The abduction of a French priest in Cameroon by Boko Haram and Ansaru working together in November 2013 demonstrates the ability of these two groups to act beyond Nigeria's borders.

13. In Libya, a complex array of militia and political parties makes it difficult to track the Al-Qaida and affiliate presence. Repeated attacks on international diplomats in Benghazi and Tripoli demonstrate such a presence.[9] In Tunisia, the Government accused Ansar Shariaa, led by Seifallah Ben Hassine, co-founder of the

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[5] For example, on 28 September 2013 a suicide bomber in a vehicle killed at least two people near a military camp in Timbuktu, Mali. AQIM claimed responsibility. See "Al-Qaida group claims Mali bombing", *Voice of America*, 30 September 2013. On 23 October 2013, a suicide bomber in a vehicle killed two United Nations peacekeeping soldiers from Chad and a civilian at a checkpoint in Tessalit in northern Mali. AQIM claimed responsibility. See "Al Qaida claims Mali suicide car bomb that killed two Chadian peacekeepers", *Gulf News*, 24 October 2013.

[6] AQIM released four French nationals on 28 October 2013. Five days later, two French journalists were kidnapped and then killed in Kidal, Northern Mali, on 2 November 2013. AQIM has claimed responsibility for this operation, by a phone call to Sahara Media, a Mauritanian website regularly used by terrorist groups in the region to make public announcements. The Minister for Foreign Affairs of France judged such a claim plausible.

[7] See www.alquds.co.uk/?p=77472, on 23 August 2013.

[8] "Many feared dead as Boko Haram attacks Maiduguri Airport", *Daily Times (Nigeria)*, 2 December 2013.

[9] "Libya's political crisis: oil, federalism and insecurity", *Civil Military Fusion Centre*, November 2013, available from www.cimicweb.org/cmo/medbasin/Holder/Documents/r038_CFC_Monthly_Thematic_Report_(25-NOV-13).pdf.

Tunisian Combatant Group (TCT) (QE.T.90.02) of assassinating two Tunisian political figures.[10]

14. Jabhat-al-Nusrah (QE.J.115.04) continues to have a strong base of activities in the Syrian Arab Republic with a logistical presence in Lebanon and Iraq. Claims that they do not have any interest in launching attacks outside the Syrian Arab Republic cannot be taken for granted, as they are an Al-Qaida affiliate in a rapidly evolving conflict. The continuing flow of non-Syrian fighters to Jabhat-al-Nusrah is a cause for concern, and one shared by a range of national authorities who have been tracking this problem.

15. Al-Qaida in Iraq (AQI) (QE.J.115.04) recently changed its name to the Islamic State of Iraq and the Levant (ISIL) in order to legitimize its operations in the Syrian Arab Republic and to detach itself from the Al-Qaida brand. So far, AQI is now operating in Iraq and the Syrian Arab Republic but could extend its operations to neighbouring countries. It has far more resources in terms of fighters and equipment than other Al-Qaida affiliates in the area. Moreover, AQI has significant access to territory and financial resources that accompany it, not least because of its control over parts of western Iraq. The engagement of AQI in the Syrian Arab Republic has not had a negative impact on its operations in Iraq and it keeps fighting in both countries. AQI has also been intensifying its propaganda efforts.

16. Meanwhile, Ansar al-Islam (QE.A.98.03) has claimed responsibility for a number of bombings targeting Kurdish and Iraqi officials during 2013. This group remains as one of the most capable extremist armed groups in Iraq. In northern Iraq, the recent conflict between Ansar al-Islam and ISIL generated an increased level of terrorist violence. This included mutual assassinations and this rivalry could generate further attacks.

17. AQAP exploits the security vacuum in Yemen. Security officials in Yemen are regularly targeted by AQAP, with 69 security forces killed from January to November 2013,[11] and the security situation in Sanaa remains volatile. The death of the AQAP deputy Said Ali al-Shihri (QI.A.275.10) on 24 January 2013 will not have much effect on the activity and operations of AQAP. The potential for international attacks by AQAP persists, but for now the impact of AQAP activities is mainly felt in Yemen. A recent example was the major attack on 5 December 2013 against the Ministry of Defence in Yemen, which killed at least 52 people and wounded 167 people.[12] Ansar al-Sharia (listed as an a.k.a. of AQAP) claimed responsibility.

18. In its fourteenth report, the Team discussed the threat of attacks against regional governments and the international community emanating from Al-Shabaab (S/2013/467, para. 10), the Somalia-based Al-Qaida affiliate in East Africa. The attack in September 2013 on the Westgate shopping centre in Nairobi demonstrates Al-Shabaab's capabilities even after having lost ground in Somalia.

19. Across South-East Asia, Al-Qaida affiliates appear to be weaker, although concerns remain. Anxieties about radicalization stemming from the Rohingya issue

[10] Mohamed Brahmi, a politician with the opposition secular Popular Front party, was assassinated in Tunis. See "Turmoil hits Tunisia after secular politician slain", *Reuters*, 25 July 2013.

[11] Information provided by a Member State.

[12] "Al-Qaida-style attack in Yemen's capital kills 52", *Associated Press*, 5 December 2013.

persist, with a video posted on YouTube on 21 August 2013.[13] Furthermore, several men in Indonesia are facing terrorism charges for allegedly plotting to bomb the Embassy of Myanmar in Indonesia to avenge the deaths of Rohingya Muslims in Myanmar. According to the prosecutor, one of the men allegedly attended sermons by Abu Bakar Ba'asyir (QI.B.217.06), the founder of Jemaah Islamiyah (JI) (QE.J.92.02) and Jemmah Anshorut Tauhid (JAT) (QE.J.133.12).[14]

20. In Indonesia, many involved in previous attacks have been successfully prosecuted, and, in recent years, JI has been eclipsed by groups such as JAT and Mujahidin Indonesia Timur (MIT) (not listed), led by a former member of JI and JAT. The current focus of JI appears to be on rebuilding and outreach. Of note is that numerous incarcerated Indonesian terrorists are expected to be released in the coming years.[15] In the Philippines, Abu Sayyaf Group (QE.A.1.01) continues activities to raise funds, such as kidnapping for ransom, and some affiliated elements that have rejected the peace process have continued to attack civilians and government forces in the southern Philippines. Despite this, Al-Qaida affiliates do not appear to be making headway.

21. In South Asia, the Lashkar-i-Jhangvi (QE.L.96.03) and Lashkar-e-Tayyiba remain potent threats. Both have been actively involved in attacks and attack planning during 2013. The Haqqani Network (TE.H.12.12) continues to be directly involved in terrorist attacks in Afghanistan. The changing environment in Afghanistan raises questions about Central Asian groups currently operating there, like the Jamaat Ansarullah (not listed), the ethnic Tajik splinter from the Islamic Movement of Uzbekistan (QE.I.10.01). If Afghanistan becomes less appealing in terms of targets for militant groups, they may refocus their efforts on their own or other countries.

22. The Islamic Movement of Uzbekistan continues to present a serious challenge to peace, security and stability in northern Afghanistan. No official information points to operational coordination between the group and the Afghan Taliban. However, the Islamic Movement of Uzbekistan operates in parallel with Afghan Taliban fighters in remote and mountainous districts in northern Afghanistan, thereby acting as a force multiplier. In 2013, the eastern and south-eastern provinces of Afghanistan faced an intensified onslaught from an array of groups belonging to the Tehrik-e-Taliban Pakistan, Lashkar-e-Tayyiba and Lashkar-i-Jhangvi. The operations of these groups also supported the efforts of the Afghan Taliban in destabilizing Afghanistan.

23. There are also continuing concerns about the Emarat Kavkaz (QE.E.131.11), a terrorist organization in the North Caucasus led by Doku Khamatovich Umarov (QI.U.290.11). The group was responsible for multiple attacks in the Russian

[13] A group calling themselves "Mujahideen of Arakan" issued a statement declaring war against the Government of Myanmar and Buddhists in the Rakhine State and inviting Muslims all over the world to fight against the Government of Myanmar in the name of the Muslim minorities in the state. Source: *SITE Monitoring Service*, 21 August 2013.

[14] "'Burmese embassy bomber' goes on trial in Indonesia", BBC News Online, 6 November 2013; and "Indonesian plotted on Facebook to attack Myanmar Embassy", Agence France Press report in the *Jakarta Globe*, 6 November 2013.

[15] Government of Australia, Jemaah Islamiyah briefing document, see www.nationalsecurity.gov.au/agd/WWW/nationalsecurity.nsf/Page/What_Governments_are_doing_Listing_of_Terrorism_Organisations_Jemahh_Islamiyah.

Federation. However, in recent years, the operational capacity of the Emarat Kavkaz has been effectively contained by local security forces, resulting in the dispersal of individuals connected to the Emarat Kavkaz. Emarat Kavkaz remains a threat, particularly in the light of the Winter Olympics to be held in Sochi in 2014. In June 2013, Doku Khamatovich Umarov released a video statement in which he called upon all of his followers to use maximum force to ensure that the Winter Olympics are disrupted.

III. Al-Qaida Sanctions List

A. Awareness of and distribution of the List

24. Information gathered during country visits demonstrates that awareness of the existence of the List and the obligations that follow varies. Strategic communications and the effective dissemination of the List remain a priority.

B. Reviews of the List

25. Between July and December 2013 the following work was done relating to reviews of the List: in September, the Team submitted to the Committee a table with the names of 17 entities in the List to be reviewed according to paragraph 41 of Security Council resolution 2083 (2012) (review of reportedly defunct entities). In November, the Team submitted a table with the names of 17 individuals in the List to be reviewed according to paragraph 39 of the same resolution (review of names lacking sufficient identifiers) and a table with the names of 10 individuals to be reviewed according to paragraph 40 (review of reportedly deceased individuals). The Team will also submit a list of names to be included in the next triennial review.

IV. Implementation of the sanctions

A. Challenges to the sanctions regime

26. The most significant legal development since the last report is the judgement of the Court of Justice of the European Union in the *Kadi II* case.[16] The Court upheld the annulment by the General Court of the restrictive measures adopted against Mr. Kadi at the European Union level. The most extensive part of the judgement concerned the standard of review, that is, the level of scrutiny that should be applied with respect to the implementation by the European Union of Security Council listing decisions. The Court did not adopt the Advocate General's views, which favoured limiting national and regional review of the Committee's listing decisions.[17] Instead, the Court adopted a stringent standard of review, in which courts of the European Union must verify the allegations made against the listed

[16] Judgment of the Court of Justice of the European Union (Grand Chamber), Joined Cases C-584/10 P, C-593/10 P and C-595/10 P, Commission, Council, *United Kingdom* v. *Kadi*, 18 July 2013.

[17] Opinion of Advocate General Bot in Joined Cases C-584/10 P, C-593/10 P and C-595/10 P, 19 March 2013.

person to ensure that the listing decision is grounded in a "sufficiently solid factual basis". This means that, at a minimum, one allegation, which in itself is sufficient to support the listing decision, must be substantiated on the basis of the information or evidence that has been provided.[18]

27. When examining the reasons relied on for the listing included in the narrative summary of reasons for listing provided by the Committee, which was disclosed to Mr. Qadi, the Court did find that, contrary to the conclusions of the General Court, most of the allegations were "sufficiently detailed and specific" to satisfy the duty to state reasons.[19] However, the Court found that information or evidence needed to substantiate the allegations against Mr. Qadi was lacking, and therefore the sanctions against Mr. Qadi adopted at the European Union level were not justified.[20]

28. Furthermore, the Court was not persuaded by arguments that improvements to delisting procedures since 2008 diminished the need for such searching review by European courts because the procedures, despite improvements, still did not provide "the guarantee of effective judicial protection" to the sanctioned person.[21] According to the Court, effective judicial protection essentially requires the sanctioned person to be able to obtain a judgment from a court ordering annulment and the retroactive erasure of the sanctions measure from the "legal order".[22]

29. Cases currently pending before the General Court could test the criteria developed in the *Kadi II* decision. The Team will continue to engage with European Union officials on listing challenges at the European Union level and on due process issues more broadly.

B. Ombudsperson

30. The Team continues to support the work of the Ombudsperson in relation to delisting requests, both submitting relevant files and providing ad hoc support on a variety of specific questions.

V. Assets freeze

A. Implementation of the assets freeze

31. Since the last report, four individuals and one entity have been listed. The Team notes that no Member State has informed the Committee or the Team that assets have been located and frozen as a result of these recent listings.

32. Implementation of the assets freeze measures remains an area of difficulty for a number of Member States. The Team has continued its engagements with the Financial Action Task Force (FATF), the FATF-style regional bodies and other

[18] Commission, Council, *United Kingdom v. Kadi*, paras. 119-120.

[19] Ibid., paras. 142-149.

[20] Ibid., paras. 151-163.

[21] Ibid., para. 133. The Court did not address the fact that the Committee removed the name of Mr. Qadi from the Al-Qaida Sanctions List on 5 October 2012, after considering the delisting request submitted by Mr. Qadi through the Ombudsperson and the Comprehensive Report of the Ombudsperson.

[22] Ibid., para. 134.

international organizations and United Nations entities to explore ways in which further assistance can be provided. In close cooperation with the Counter-Terrorism Committee Executive Directorate, the Team provided extensive comments on the FATF publication entitled "International best practices: targeted financial sanctions related to terrorism and terrorist financing", which was issued in June 2013. The Team is also participating in a joint initiative with the Commonwealth Secretariat, the International Monetary Fund (IMF) and the United Nations Office on Drugs and Crime (UNODC) to develop model provisions on combating money-laundering and the financing of terrorism, which will also contain guidance on key requirements that Member States may wish to consider when designing their national framework for implementing the Al-Qaida sanctions regime. In addition, the Team has participated in three workshops organized by the Counter-Terrorism Committee Executive Directorate in the Middle East and North African region, the Asia-Pacific region and the Eurasian region to raise awareness of the Al-Qaida sanctions regime.

33. Al-Qaida and its affiliates continue to exploit formal and informal financial systems to move funds across borders and to fund their activities. A recent typology study conducted jointly by FATF and the Intergovernmental Action Group against Money Laundering in West Africa on terrorist financing in West Africa[23] confirms that terrorists and terrorist groups continue to use both legal and illicit means to raise and move funds. In the Middle East and North Africa, the typologies report issued by the Middle East and North Africa Financial Action Task Force in May 2013 shows the abuse of banking institutions for the outward transfer of funds.[24] This is a departure from the findings of an earlier report issued in 2010 where the cross-border physical transportation of funds was the preferred method for moving funds.

34. The Society for Worldwide Interbank Financial Telecommunication (SWIFT) reports that 4.6 billion cross-border financial transfers were made globally in 2012. This excludes internal transfers within Member States. That the bulk of these are tracked — even imperfectly — against the Al-Qaida Sanctions List is no minor achievement, and reflects the degree to which sanctions lists are now part of the international and domestic regulatory framework in the financial sector.

B. Payment of ransoms

35. One particular aspect of the assets freeze that deserves more attention is kidnapping for ransom. A number of hefty ransom payments to Al-Qaida and its affiliates in recent years have made kidnapping a core Al-Qaida tactic. A letter between the leaders of AQAP and AQIM in 2012 urged kidnapping, calling the tactic a "profitable trade and a precious treasure" and an audio recording released in October 2012 revealed Al-Zawahiri inciting militants worldwide to kidnap westerners.

36. Africa and the Asia-Pacific region accounted for 53 per cent of kidnappings recorded worldwide in 2012, an increase from 18 per cent in 2004. The Middle East accounted for 19 per cent of kidnappings recorded worldwide in 2012, an increase

[23] Financial Action Task Force and the Intergovernmental Action Group against Money Laundering in West Africa, *Terrorist Financing in West Africa*, October 2013.

[24] Middle East and North Africa Financial Action Task Force, *Money Laundering and Terrorist Financing Trends and Indicators in the Middle East & North Africa Region — Update 2013*, May 2013.

from 4 per cent in 2008.[25] Meanwhile, an estimated $120 million in ransom payments was paid to terrorist groups between 2004 and 2012, according to the United States. According to another Member State, AQAP alone received $20 million between 2011 and 2013. Yemeni officials told the Team that around 30 per cent of kidnappings in Yemen were committed by AQAP. A total of 1,283 kidnappings motivated by terrorism were reported in 2012, and a single hostage could deliver a seven-figure ransom into the hands of terrorists. AQIM, with an estimated $15 million annual budget, received $5.4 million on average per hostage in 2012, an increase of nearly $1 million from 2011.[26] Each ransom payment encourages further kidnappings, creating a vicious cycle of encouragement as well as funding for Al-Qaida and its affiliates.

37. Governments worldwide have condemned ransom payments to terrorist groups. At its summit in 2013, the Group of Eight declared its "unequivocal rejection" of terrorist funding through ransom payments. The Al-Qaida sanctions regime confirms that ransom should not be paid to listed groups or individuals. When a ransom is paid, the insurance sector, private companies and risk consultancies may be involved in providing the funds or facilitating payments. The kidnap and ransom insurance market, worth $250 million in 2006, doubled in size by 2011.[27]

38. It is reasonable for families and companies to want to protect individuals at risk from, or subject to, kidnapping. The majority of kidnappings are criminal in nature rather than being motivated by terrorism. The presence of an insurance and risk advisory market in this space is helpful when it provides expert advice and support for those working on behalf of kidnapped victims. Ransom payments to listed groups or individuals, however, would be a breach of the Al-Qaida sanctions. The Team will continue to promote a better understanding of the assets freeze obligations within the Al-Qaida sanctions regime, with a particular focus on outreach to relevant business sectors that deal with kidnapping for ransom in 2014.

VI. Travel ban

A. Implementation of the travel ban

39. The travel ban is a sanctions measure with tremendous disruptive and preventative potential if properly enforced. The Team has continued to focus its efforts on enhancing the quality of precise identifying information, including where possible biometric information (including photographs) that can be disseminated through the INTERPOL-United Nations Security Council Special Notices. The Team has also raised awareness of the Al-Qaida sanctions in the commercial airline sector by working closely with the International Civil Aviation Organization (ICAO), the International Air Transport Association (IATA) and private industry. The Al-Qaida Committee followed the recommendation of the Team contained in the fourteenth

[25] Riskmap Report 2013, available from www.controlrisks.com/webcasts/studio/riskMap_2013/pdf/RiskMap_2013_report.pdf.

[26] It should be noted that kidnapping cases are underreported, and ransom information is not always reliable. However, the Team has worked closely with relevant Member States to build this assessment.

[27] "I'm a client... get me out of here", www.economist.com, 27 June 2013.

report and urged all Member States to declare listed individuals to be inadmissible passengers in accordance with their national legislation. In addition, the Committee called upon Member States to inform TIMATIC, a database maintained by IATA of this change (see S/2013/467, para. 59; and S/2013/698, para. 17). The Team will continue to cooperate with Member States on this matter to increase the effectiveness of the implementation of the travel ban. Airlines take great care in screening passengers before travel against entry requirements, not least because they may be fined or held financially responsible for some or all costs of returning inadmissible passengers to their point of departure or to a place where they are admissible. The Monitoring Team has met ICAO, the lead international organization on the issue of inadmissible passengers, and IATA multiple times in 2013 and will continue to work closely with them.

40. Furthermore, the potential disruptive capability of the travel ban as a sanctions measure depends also on adequate implementation through border control mechanisms. While significant progress has been made through the introduction of integrated border control management systems by a number of Member States, challenges remain and the potential for false matches exists owing to the lack of precise identifying information on listed individuals. Other countries simply do not have these tools, which makes matching identities a considerable challenge. In addition, Member States bordering areas with significant Al-Qaida-affiliated activity, such as Mali, the Syrian Arab Republic, Iraq, Yemen, Somalia and Afghanistan, are struggling to increase their capacity to implement stringent border control mechanisms to track the cross-border movement of listed individuals. These countries also face significant challenges of cross-border refugee flows. These flows can create significant stress for existing border control systems and therefore inadvertently provide cover for the travel of listed individuals.

B. Value of biometric information on listed individuals

41. The Al-Qaida sanctions regime cannot easily overcome some of these national constraints. However, the provision of timely and precise information on listed individuals to the relevant authorities in the Member States and the reinforcement of border control capabilities can help. One proposal that has not yet been sufficiently explored by the Committee is the provision of biometric data on listed individuals. Biometric data allows the identification of individuals independently of the identity or the travel documents that they use and reduces the risk of false matches during the identification process. This directly improves the fairness and proportionality of the Al-Qaida sanctions regime.

42. The increased use of biometric data of listed individuals would therefore strengthen the implementation of the travel ban. A number of listed individuals on the Al-Qaida Sanctions List have been involved in court cases and extradition procedures, according to information provided in their list entries. It is therefore likely that relevant Member States hold complete or partial sets of biometric data (among other things, pictures, fingerprints and iris scans) on these individuals. The Team recommends that the Committee request Member States to submit these datasets for inclusion in the INTERPOL-United Nations Security Council Special Notices in accordance with their national legislation.

VII. Arms embargo

A. Implementation of the arms embargo

43. Given the scale of the global arms availability, implementing the arms embargo against Al-Qaida and its affiliates continues to be challenging. The sanctions regime can be most useful here when the focus of preventative sanctions is specific. One example is the direct listing of Al-Qaida "quartermasters" and bomb-makers — the technicians who enhance terrorist capabilities.[28] However, this is not the only path to a more effective approach. Through a series of discussions with relevant government and external experts, the Team has been seeking to identify specific areas in which better understood, enforced sanctions could prevent or limit Al-Qaida's reach.

B. Improvised explosive devices

44. According to the Mine Action Service, "improvised explosive devices are a uniquely dangerous weapon system due to their versatility, adaptability and method of employment. IED incidents often result in a large number of civilian casualties, widespread destruction of infrastructure, and the economic disruption of entire communities".[29]

45. The Team is applying its initial focus on the primary weapon of choice of Al-Qaida and its affiliates: IEDs. These remain a versatile and dangerous weapon and the principal cause of civilian casualties in many terrorist attacks by Al-Qaida affiliates. Accurate incident and casualty data linked to the use of IEDs is difficult to obtain. At least 90 countries are affected by IEDs, and Al-Qaida and its affiliates exchange information and advice on how best to construct and use them. Two persistent challenges are the use of ever larger IEDs, which kill and maim more victims, and innovation in design and execution of IED attacks. IED technology and techniques are spreading, and there have been sharp increases in the use of IEDs by groups such as Jabhat-al-Nusrah in the Syrian Arab Republic and Boko Haram (not listed) in Nigeria. Boko Haram reportedly increased its use of IEDs in 2012.[30] United Nations peacekeepers and humanitarians are not immune to this threat, as evidenced by the reporting of over 5,000 IED events in 2013 across the various United Nations missions and programmes.[31] It is anticipated that IEDs will remain the weapon system of choice for Al-Qaida and its associates into the foreseeable future.

46. The challenge of IEDs is not a new one, even though the scale of the threat is growing. The Secretary-General has repeatedly called for more international action

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[28] The Committee has indicated that it "fully supports and encourages Member States to submit for listing the names of those who provide technical advice, assistance, or training related to military activities to the individuals and entities on the Consolidated List. Such individuals should be subject to the sanctions measures and their names be referred to the Committee" (see S/2006/635, para. 15). The Committee has since reconfirmed its "agreement with the recommendations aimed at improving the efficiency of the arms embargo by targeting those who supported terrorist activities, especially those whom States believed to have conducted bombings and killings in the name of listed individuals and entities" (see S/2007/229, para. 18).

[29] Available from: www.mineaction.org/sites/default/files/documents/UNMAS%20IEDs.pdf.

[30] Organization for Economic Cooperation and Development, *Conflits liés aux ressources et terrorismes: deux facettes de l'insécurité, Cahiers de l'Afrique de l'Ouest*, April 2013.

[31] Information received by the Team from the Mine Action Service. Not all of these incidents are related to Al-Qaida.

on IEDs, and this is a subject of intense discussion between the Team and Member States. The Team has also engaged in detailed technical discussions with counter-IED specialists and those involved with private sector supply chains of components that may be used to construct IEDs.

47. The provision of arms to listed Al-Qaida affiliates or individuals is a breach of the arms embargo. The arms embargo includes "arms and related materiel of all types including weapons and ammunition, military vehicles and equipment, paramilitary equipment, and spare parts for all of these".[32] The term "related materiel" under the Al-Qaida arms embargo could include dual-use materials that could be used to make weapons, in particular components that could be used to manufacture improvised explosive devices. As Al-Qaida and its associates will use any available types of explosives to conduct attacks, the Team recommends that the Committee should encourage Member States to apply the term "arms and related materiel of all types" under the Al-Qaida arms embargo to all types of explosives, whether military, civilian or improvised explosives, but also to raw materials and components that can be used to manufacture IEDs or unconventional weapons, including but not limited to chemical components, detonating cord, fertilizers and poisons. The Committee has previously considered this issue,[33] and the Team proposes to advance this initially through a revised explanation of terms paper currently under consideration by the Committee.

48. A comprehensive approach to limit IEDs should be a global approach, and one that reaches out directly to key partners in the private and public commercial sectors. Al-Qaida and its affiliates use both military components when they can secure them and civilian components to construct IEDs. Governments play the leading role in securing military stockpiles or preventing leakage from official procurement channels. The private and public commercial sectors, however, play a crucial role in manufacturing and influencing the availability, audit and signatures of commercial components. These include fertilizers such as ammonium nitrate and potassium chlorate, often used to make IEDs. Commercial detonating cord is also increasingly being used by terrorist manufacturers of IEDs, not least as these are less likely to injure or kill bomb-makers than are home-made detonators.

49. The Team believes that a sharper analytical focus on IED components used by Al-Qaida and its affiliates, based on better information-sharing by affected States, could help in enforcing sanctions. Better identification of prevailing methods and choice of components could facilitate a coordinated approach to prevention.[34] This relates in particular to large IEDs, which often use multiple detonators or detonating cord. Close cooperation with commercial manufacturers could help initiate measures to limit availability and improve forensic audit capabilities, particularly in cases of IED strikes where sophisticated forensic teams are not readily available.

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[32] Resolution 1390 (2002), para. 2, as reiterated in resolution 2083 (2012), para. 1.

[33] The Committee requested the Team "to work on a document compiling States' experiences in dealing with the threat of civilian and improvised explosives" and decided that "the recommendation to explicitly specify that the arms embargo covers [...] civilian and improvised explosives [...], could be referred to the Security Council for discussion on any future resolution" (see S/2008/16, para. 23).

[34] This has been done before with regard to ammonium nitrate. For example, the United States Joint IED Defeat Organization worked with the international fertilizer association to trace the production and the distribution of nitrogen-based products in order to contain its supply to terrorists. (Discussions between the Team and Member State experts, November 2013.)

50. The Team will continue to engage with relevant Member States and commercial producers and consumers, in particular those in the mining, chemical and construction sectors, to identify potential initiatives that could enhance the disruptive and preventative sanctions against Al-Qaida and its affiliates. At present, three problems inhibit concerted action on this agenda. First, the awareness of how commercially produced materials are being used by Al-Qaida and its affiliates often does not extend beyond the security communities of Governments. Second, national regulatory frameworks vary enormously on this. Third, a self-regulatory or standards-based approach to the problem has yet to be defined — and this is one particular area in which existing work on the problem of IEDs could be advanced. Each of these challenges can be overcome by systematic work through which affected States work collaboratively, the private and State-owned commercial sectors are engaged and strategic imagination is applied to the problem.

C. Terrorist training

51. The arms embargo includes a ban on the provision of technical advice, assistance or training related to military activities, which, without exception, must be denied to those designated on the Al-Qaida Sanctions List. This includes preventing any individual from participating in any training designed to teach military skills and recruiting individuals to Al-Qaida or listed affiliates, as this is akin to supplying technical advice, assistance or training. Member States should continue to actively consider listing key individuals who are instrumental in delivering training or enabling recruitment to Al-Qaida affiliates. This includes those identified as central to the indoctrination and recruitment of suicide bombers.[35]

D. Chemical, biological, radiological and nuclear materials

52. The Team continues to track closely allegations of efforts by Al-Qaida and its affiliates to gain access to chemical, biological, radiological or nuclear materials. The risks here need to be set into context: accessing, handling or successfully conducting attacks with such material is more complex than is commonly assumed. However, in a competitive environment in which Al-Qaida and its affiliated groups tussle for pre-eminence, the potential for symbolic or substantive use of such materials in an attack remains. Incidents of theft of related materials continue, for example, the theft of radioactive material in Mexico in December 2013[36] and the seizure of a kilogram of uranium in South Africa in November 2013.[37] Such incidents are relatively rare, but are reminders of the necessity of vigilance. The

[35] The Committee has in principle agreed with "improving the efficiency of the arms embargo by targeting those who support terrorist activities", see S/2006/1047, para. 15. See also S/2006/635, para. 15.

[36] "Mexico hospitalizes six suspected of stealing radioactive material", *Reuters*, 6 December 2013.

[37] "South Africa says seized uranium is not enriched and the nuclear material is not from the continent", *International Business Times*, 26 November 2013 and "Navigating nuclear traffic", *Institute for Security Studies*, Pretoria, 29 November 2013. The seized uranium, or "yellowcake", had a 0.38 per cent uranium-235 content, which is below the average 0.7 per cent found in natural uranium and 90 per cent below weapons-grade material. It thus posed no real threat other than possible poisoning. This type of uranium is used for industrial purposes and is found in material used in the construction of ship hulls and in airplanes.

Team continues to work closely with the group of experts assisting the Committee established pursuant to resolution 1540 (2004) to ensure that technological frontiers and the intent and motivations of Al-Qaida and its affiliates are being effectively tracked by the Security Council.[38]

E. Man-portable air defence systems

53. Man-portable air defence systems (MANPADS) have long been the subject of particular attention by international authorities. There have been more than 40 attacks by man-portable air defence systems on civilian aircraft since the 1970s.[39] This is a real threat, albeit one that has been largely contained by careful national, bilateral and multilateral cooperation. Reports of such systems in the Sahel coming under the potential control of Al-Qaida affiliates have been a cause for concern in 2013. These will likely have degraded — thermal batteries do not last forever — but could nonetheless still pose a threat or be used for training and rehearsing a potential attack. The AQIM arsenal may now include sophisticated antiaircraft weapons originating from Libya, even though these are unlikely to be operational. A Member State in the Sahel told the Team of seizing man-portable, low-altitude surface-to-air missiles from an Al-Qaida affiliate. Russian Strela (SA-7) models remain common and relatively cheap on black or grey markets.

54. A larger "pool" of available man-portable air defence systems would exacerbate the risks posed by these systems. Some estimates suggest that there were up to 20,000 Libyan missiles held by the Qadhafi Government — some of which may no longer be under government control.[40] Currently, some 47 non-State armed groups[41] "are believed to have held, or be holding", man-portable air defence systems. The potential increase during 2013 in the availability of man-portable air defence systems to Al-Qaida affiliates in Africa, and as a result of the conflict in the Syrian Arab Republic, could pose a future threat.

VIII. Activities of the Monitoring Team

A. Visits

55. From July to December 2013, the Team conducted 13 country visits, to Afghanistan, Australia, Bosnia and Herzegovina, Chad, Jordan, Lebanon, Pakistan,

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[38] The Committee has requested the Team "to continue to explore how the recommendations, including those relating to the threat of the use of chemical, biological, radiological or nuclear materials, can be made more specific to address the threat posed by Al-Qaida and the Taliban". See S/2005/760, sect. IV.

[39] According to ICAO, by 2004 at least 42 civilian aircraft have been attacked by such systems since 1970, with 29 of them going down. See ICAO presentation, March 2004, see www.osce.org/documents/sg/2004/03/2203_en.pdf. See also: www.state.gov/t/pm/rls/fs/169139.htm.

[40] United Nations Office on Drugs and Crime, *Transnational organized crime in West Africa — a threat assessment*, February 2013. Andrew J. Shapiro, Assistant Secretary, Bureau of Political-Military Affairs, United States Department of State, "Addressing the Challenge of MANPADS Proliferation", remarks on, 2 February 2012, available at: http://www.state.gov/t/pm/rls/rm/183097.htm.

[41] Michael Ashkenazi and others, "MANPADS: a terrorist threat to civilian aviation?", Bonn International Center for Conversion, February 2013.

Senegal, Tajikistan, Turkmenistan, Turkey, the United Kingdom of Great Britain and Northern Ireland and the United States. The Team continued to maximize value for money wherever it could with regard to international travel. During 2013 as a whole, the Team made a number of multiple country visits from headquarters, saving 19 international return flights from New York.

B. Talks and meetings

56. The Team has sought to promote the sanctions regime and the current agenda of the Committee through a range of talks and external meetings. This included talks at the International Institute for Strategic Studies in London; the Carnegie Endowment for International Peace in Washington, D.C.; a regional security conference in Muscat; and the University of Texas in Austin, United States. The Team continues to meet with a range of academics who work on matters relating to Al-Qaida and its affiliates.

C. Regional meetings with intelligence and security services

57. On 2 and 3 July 2013, the Team held the eleventh regional meeting of intelligence and security services, in Vienna. Seven countries participated in detailed discussions of the contemporary threat from Al-Qaida and its affiliates. On 18 and 19 December 2013, the Team held its first regional meeting of intelligence and security agencies in North and West Africa and the Sahel, in Abidjan. Côte d'Ivoire generously co-hosted the meeting, at which 11 countries participated. The Team also met with a variety of other intelligence and security officials during country visits and at regional meetings to which it was invited. These meetings help the Team to maintain up-to-date assessments of listed groups and individuals.

58. The discussions of the Monitoring Team with national intelligence and security services are a valuable reminder of the preventative value of intelligence in counter-terrorism, and its crucial importance to informing Al-Qaida sanctions listings.

D. Advancing a "One United Nations" approach to counter-terrorism

59. The Team remains an active member of the Counter-Terrorism Implementation Task Force and attended the annual retreat in New York in December 2013. The logic of greater coordination and coherence between United Nations counter-terrorism bodies and the wider United Nations family persists, in particular closer engagement with United Nations bodies focused on development and human rights. The revitalization and revised reporting mandates of the working groups of the Task Force, due to be formally agreed in early 2014, should also enhance a more integrated and productive United Nations approach to counter-terrorism. The Team has liaised closely with the consultant leading the project funded by the Task Force on terrorist designations, as this project has the potential to improve the quality of designations and encourage listing proposals from Member States who have not previously proposed names. Moreover, the Team has been an active contributor to documents on United Nations strategy, including the report of the Secretary-General on United Nations counter-terrorism efforts in Africa and the integrated strategy on the Sahel.

60. The Team continues to work closely with the Counter-Terrorism Committee Executive Directorate and the UNODC Terrorism Prevention Branch. The important work of the Executive Directorate in advancing Security Council resolution 1373 (2001), and valuable programmes on border security and counter-terrorism finance, also help to advance the Al-Qaida sanctions regime. The Terrorism Prevention Branch remains the primary entity in the United Nations counter-terrorism family providing legal counter-terrorism capacity-building, and should continue to be the preferred conduit for relevant technical assistance projects.

E. International and regional organizations

61. The Team participated in numerous meetings at the international, regional and subregional levels, including with the Organization for Security and Cooperation in Europe (OSCE), the European Union, the North Atlantic Treaty Organization, the World Customs Organization, ICAO and INTERPOL. During the reporting period, the Team participated in 14 such meetings and continued engagement through regular consultations with some of them. This included an expert presentation at an OSCE conference in Ukraine. The Team also continued to play an active role in the development of measures to counter the financing of terrorism through its participation in plenary meetings of FATF and meetings of the FATF-style regional bodies. In all these meetings, the Team was able to inform other participants about the Al-Qaida sanctions regime and discuss implementation requirements.

F. Cooperation between the Security Council and INTERPOL

62. The Team continues to work with INTERPOL on the issue of INTERPOL-United Nations Security Council Special Notices. If suitable donors can be identified, further training workshops on these special notices could be organized by INTERPOL.

G. Cooperation with other Security Council panels of experts

63. Security Council sanctions remain an area in which reflective, structured thinking about how best to design, implement and monitor targeted sanctions is useful. The Al-Qaida sanctions regime has 283 list entries (as at 26 December 2013), while all other United Nations targeted sanctions regimes have around 800 list entries combined. The opportunities for sharing ideas and practical advice on what works are significant. Discussions with different expert groups continued over the past six months, which helped the Team to advance two specific initiatives.

64. The Team also invested considerable time in 2013 to advise on, design and trial a new sanctions list database that reflected a more detailed list of identifiers. The outputs of this work have been shared with the Department of Political Affairs, which is commencing work on a cross-sanctions list database. When implemented, this could deliver significant benefits to all the sanctions regimes.

H. Efficiency and transparency

65. The Team continues to maximize efficiency and transparency in its work. Team activities have been conducted with a focus on managing costs and directing efforts towards direct support of the Committee and improving implementation of the sanctions.

I. Contributing to the public debate

66. The Team would welcome feedback regarding the analysis and recommendations contained in the present report. Such feedback can be e-mailed to 1267mt@un.org.

Annex

Litigation relating to individuals and entities on the Al-Qaida Sanctions List

1. The legal challenges involving individuals and entities on the Al-Qaida Sanctions List, or whose names the Committee has removed from the List, known to the Monitoring Team to be pending or to have been recently concluded are described below.

European Union

2. On 18 July 2013, the Court of Justice of the European Union dismissed the joint appeals by the European Commission, the Council of the European Union and a State member of the Union against the decision regarding Yasin Abdullah Ezzedine Qadi (delisted) taken by the General Court of the European Union in September 2010,[a] and upheld the General Court's annulment of the restrictive measures adopted against Mr. Qadi.[b] The Court of Justice found that information or evidence needed to substantiate the allegations against Mr. Qadi was lacking.

3. The action brought by Sanabel Relief Agency Limited (delisted), among others, against the European Commission remains pending before the General Court.[c]

4. The actions brought by Abdulbasit Abdulrahim and Shafiq Ben Mohamed Ben Mohamed Al-Ayadi (both delisted) are also pending before the General Court after they were referred back by the Court of Justice on appeal.[d] In both instances, the Court of Justice found that, despite being delisted, the respective applicant retains an interest in having European courts recognize that he should have never been included on the list in the first place.[e]

5. The action brought by Hani al-Sayyid al-Sebai Yusif (QI.A.198.05) seeking a declaration that the European Commission unlawfully failed to remove Mr. Yusif's name from the list of persons, groups and entities subject to restrictive measures is awaiting judgement by the General Court.[f]

6. Most recently, Mohammed al-Ghabra (QI.A.228.06) brought an action against the European Commission seeking annulment of the restrictive measures adopted against him.[g]

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[a] Judgment of the General Court of the European Union, Case T-85/09, *Kadi v. Commission*, 30 September 2010 (available from http://curia.europa.eu).

[b] Judgment of the Court of Justice of the European Union (Grand Chamber), Joined Cases C-584/10 P, C-593/10 P and C-595/10 P, Commission, Council, *United Kingdom v. Kadi*, 18 July 2013 (available from http://curia.europa.eu).

[c] Case T-134/11, *Al-Faqih and Others v. Commission* (available from http://curia.europa.eu).

[d] Case T-127/09 RENV, *Abdulrahim v. Council and Commission*; Case T-527/09 RENV, *Ayadi v. Commission* (available from http://curia.europa.eu).

[e] Judgment of the Court of Justice of the European Union (Grand Chamber), Case C-329/12 P, *Abdulrahim v. Council and Commission*, 28 May 2013; Judgment of the Court of Justice of the European Union (Tenth Chamber), Case C-183/12 P, *Ayadi v. Commission*, 6 June 2013 (available from http://curia.europa.eu).

[f] Case T-306/10, *Yusef v. Commission* (available from http://curia.europa.eu).

[g] Case T-248/13, *Al-Ghabra v. Commission* (available from http://curia.europa.eu).

Pakistan

7. The action brought by the Al Rashid Trust (QE.A.5.01) against the application of the sanctions measures against it remains pending in the Supreme Court of Pakistan on appeal by the Government from an adverse decision of 2003.[h] The similar challenge brought by Al-Akhtar Trust International (QE.A.121.05) remains pending before a lower court.[h]

United Kingdom of Great Britain and Northern Ireland

8. The United Kingdom is currently defending a judicial review challenge to its decision-making with regard to the designation under the Al-Qaida sanctions regime of Hani al-Sayyid al-Sebai Yusif (QI.A.198.05), who resides in the United Kingdom. The decision of the Foreign Secretary to allow the claimant's name to be added to the list of persons subject to the Al-Qaida sanctions regime was upheld by the Court of Appeal on 29 October 2013.[i]

9. The United Kingdom is also defending judicial review challenges to its decision-making with regard to the designations under the Al-Qaida sanctions regime of Abdulbasit Abdulrahim, Abdulbaqi Mohammed Khaled and Maftah Mohamed Elmabruk (all of whom have been delisted). These cases were all stayed pending the outcome of the Yusif case discussed above.[i]

10. Mohammed al Ghabra (QI.A.228.06), who resides in the United Kingdom, dropped his judicial review challenge to the decision-making of the United Kingdom with regard to his designation under the Al-Qaida sanctions regime.[i]

United States of America

11. On 23 September 2011, the United States Court of Appeals for the Ninth Circuit issued a decision upholding the designation of Al-Haramain Foundation (United States of America) (QE.A.117.04) on the merits and finding that, while aspects of the process afforded to the Foundation violated its Fifth Amendment right to due process, these violations were a harmless error.[j] The Ninth Circuit did find, however, that the failure to obtain a judicial warrant prior to the designation violated the Fourth Amendment and remanded the case to the district court to consider what remedy, if any, was appropriate. On 14 December 2011, the Government petitioned the Ninth Circuit for a rehearing. On 27 February 2012, the Ninth Circuit denied the rehearing petition and revised its opinion to clarify the Fourth Amendment holding.[k]

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[h] Information provided by Pakistan.

[i] Information provided by the United Kingdom.

[j] *Al Haramain Islamic Foundation, Inc. v. United States Department of the Treasury*, No. 10-35032, 23 September 2011 (available from www.ca9.uscourts.gov/datastore/opinions/2011/09/23/10-35032.pdf).

[k] *Al Haramain Islamic Foundation, Inc. v. United States Department of the Treasury*, 2012 U.S. App. LEXIS 4026, 27 February 2012.

12. On 12 December 2012, the district court issued an opinion and order finding the Fourth Amendment violation to be a harmless error, denying Al-Haramain's motion to file an amended complaint and denying Al-Haramain's request for further relief with respect to the Fifth Amendment.[l] On 21 August 2013, the district court ruled that Al-Haramain was not entitled to attorneys' fees.[m]

[l] *Al Haramain Islamic Foundation, Inc. v. United States Department of the Treasury*, 2012 U.S. Dist. LEXIS 175759, 12 December 2012.

[m] *Al Haramain Islamic Foundation, Inc. v. United States Department of the Treasury*, 2013 U.S. Dist. LEXIS 118377, 21 August 2013.